

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN
COURT FILE NO.: 03-CV- 0510 C**

Penny Lee Anderson and
Russell D. Anderson, Sr.,

Plaintiffs,

-VS-

**SECOND AFFIDAVIT OF JOHN H.
GOOLSBY**

Trans Union, L.L.C.;
Experian Information Solutions Inc.;
CSC Credit Services, Inc.;
Equifax, Inc. d/b/a Equifax Information Services
LLC,

Defendants.

John H. Goolsby, Esq., being duly sworn and upon oath, deposes and says as follows:

1. That I am one of the attorneys representing Plaintiffs in the above-entitled matter. I submit this Second Affidavit in opposition to Defendants' Motions for Summary Judgment or Partial Summary Judgment.
2. That attached hereto as Exhibit A is a true and correct copy of the complete Ex. 7 from the deposition of Janice Fogleman.
3. That attached hereto as Exhibit B is a true and correct copy of Sarver v. Experian Information Solutions, No. 04-1423 (7th Cir. Dec. 1, 2004).

FURTHER YOUR AFFIANT SAYETH NOT.

s/John H. Goolsby
John H. Goolsby

Subscribed and sworn before me
this 9th day of December, 2004.

s/Sharon A. McMahon
Notary Public

SIR

LOGOUT

0 Notes

ADD NOTE

Status:
proc

SSN:
394-78-4720

Keyer ID:
d73

Last Name:
ANDERSON

Process Date
(MM/DD/YYYY):
11/29/2002

ACIS:
233309136

Initial Folder:
de

DEMEMO:
CSMD0211250266024
PROCESSED

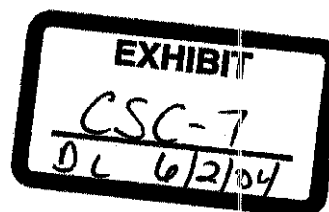
Postal Date
(MM/DD/YYYY):
11/25/2002

SINGLE:
no

ASS (313)/Houston, TX / on 8/11/11-12-02

To whom it may con
I am write
something on my bus.
credit report. I have
of page 2 of a credit -
received from Evergi
Inc. Cross Country Bar
an account closed due
status. I have spoken
BANK on a few separat
they promised they were

Session Time Remaining: 59 minute(s).
COPYRIGHT © 2002 ACS. ALL RIGHTS RESERVED



CSC230

AGS (313) / Houston, TX / on 8/11/12-02

NOV 4 7 2002

Nov 2, 2002

To Whom it may concern:

I am writing to dispute something on my husband and I's credit report. I have enclosed a copy of page 2 of a credit report that I received from Evergreen Credit Reporting Inc. Cross Country Bank has reported an account closed due to deceased status. I have spoken with Cross Country Bank on a few separate occasions and they promised they would take care of this. It has been on our credit report for a few years. I am unsure why they reported info of this sort because both I and my husband are very much alive. We still have an open credit card with Cross Country Bank. I am also enclosing 2 credit denials due to this adverse information on our credit report. This is only 2 of many. I am asking that the deceased status be removed off our credit report.

Thanks much, *Russell D. Anderson Sr.*

Daytime phone:
715-246-2213

CSC231

Page Two

Reference number : 2-02136-1792438-72
Membership number:

Account Name/Number/Type of Account	Credit Bureau	Date	High/Limit	Mchly Pymt	Account Balance	Last Spd	Account Past Status	Last Due Amt	Past Due 10 60 90	Next Date	Historical Acct Status
BANK OF NEW RICHMOND /40699520128XXXX REAL ESTATE											
(01) EFX	J	12-01	23000	251	23000	07-02	CURRENT		00 00 00	07-02	111111
(02) XPN	J	20-01	22700	251	22342	07-02	CURRENT		00 00 00	07-02	11111111
(03) TUC	J	12-01	22774	251	22342	07-02	CURRENT		00 00 00	07-02	11111111
COMMENTS: EFX: HOME IMPROVEMENT LOAN. XPN: CURRENT ACCOUNT.											
CAPITAL ONE BANK /41217415XXXX REVOLVING											
(01) EFX	I	01-99	1253	N/A	CLOSED	02-02	CURRENT		00 00 00	02-02	11111111111111111111
(02) XPN	I	01-99	1200	N/A	CLOSED	02-02	CURRENT		00 00 00	02-02	11111111111111111111
(03) TUC	I	01-99	1253	N/A	CLOSED	02-02	UNRATED		00 00 00	02-02	-111111111111
COMMENTS: EFX: CLOSED. XPN: CLOSED BY CONSUMER. XPN: CLOSED. TUC: CREDIT LINE CLOSED.											
CROSS COUNTRY BANK /42270974XXXX REVOLVING											
(01) EFX	U	04-99	N/A	N/A	08-02	UNRATED			00 00 00	08-02	-
(02) XPN	T	04-99	1900	44	1453	08-02	UNRATED		00 00 00	08-02	-11111111111111111111
(03) TUC	U	04-99	1959	54	1770	07-02	CURRENT		00 00 00	07-02	111111111111
COMMENTS: EFX: CONSUMER DECEASED. XPN: CONSUMER DECEASED. TUC: CONSUMER DECEASED.											
CROSS COUNTRY BANK /54149070XXXX REVOLVING											
(01) EFX	J	04-99	500	N/A	04-99	CURRENT			00 00 00	04-99	1
(02) XPN	T	04-99	1900	53	1757	08-01	UNRATED		00 00 00	08-01	-11111111111111111111
COMMENTS: XPN: CONSUMER DECEASED.											
CROSS COUNTRY BANK /42270972XXXX REVOLVING											
(01) EFX	I	06-98	4300	N/A	CLOSED	07-02	CURRENT		00 00 00	07-02	11111111111111111111
(02) XPN	I	06-98	4300	N/A	CLOSED	08-02	CURRENT		00 00 00	08-02	11111111111111111111
(03) TUC	I	06-98	4366	N/A	CLOSED	07-02	UNRATED		00 00 00	01-02	-111111111111
COMMENTS: EFX: CLOSED. XPN: CLOSED BY CONSUMER. XPN: CLOSED. TUC: CREDIT LINE CLOSED.											
FORD MOTOR CREDIT CORP /JHA218XXXX INSTALLMENT											
(01) EFX	J	06-99	21000	351	8775	05-02	CURRENT		00 00 00	05-02	11111111111111111111
(02) XPN	J	06-99	21000	351	8073	07-02	CURRENT		00 00 00	07-02	11111111111111111111
(03) TUC	J	06-99	21060	351	8073	07-02	CURRENT		00 00 00	07-02	111-11111111
COMMENTS: EFX: AUTO LOAN. XPN: CURRENT ACCOUNT.											
PRO MOTOR CR /5BA361XXXX INSTALLMENT											
(01) EFX	J	11-00	17000	283	12000	05-02	CURRENT		00 00 00	05-02	11111111111111111111
(02) XPN	J	11-00	16900	283	11331	07-02	CURRENT		00 00 00	07-02	11111111111111111111
(03) TUC	J	11-00	16996	283	11331	07-02	CURRENT		00 00 00	07-02	111-11111111
COMMENTS: EFX: AUTO LOAN. XPN: CURRENT ACCOUNT.											
KEYBANK USA, NA - ASF /51XXXX INSTALLMENT											
(01) EFX	C	08-95	21000	357	-0-	02-00	CURRENT		00 00 00	02-00	11111111111111111111
(02) XPN	S	08-95	21400	N/A	CLOSED	04-99	CURRENT		00 00 00	06-99	11111111111111111111
(03) TUC	C	08-95	21460	357	CLOSED	01-00	UNRATED		00 00 00	05-99	-----111
COMMENTS: EFX: AUTO LOAN. XPN: CLOSED. TUC: CLOSED.											
LSCF/3RDPRTY /1589006XXXX INSTALLMENT											
(01) EFX	I	01-01	2625	51	609	07-02	CURRENT		00 00 00	07-02	1111111111111111
(03) TUC	I	03-01	2625	62	658	06-02	CURRENT		00 00 00	06-02	11111111-111
LSCF/3RDPRTY /1589006XXXX INSTALLMENT											
(01) EFX	I	01-01	2000	26	289	07-02	CURRENT		00 00 00	07-02	1111111111111111
(03) TUC	I	03-01	2000	29	313	06-02	CURRENT		00 00 00	06-02	11111111-111

Continued on page Three

CSC232

American Express Centurion Bank
PO Box 31525
Salt Lake City, UT 84131



04368



Russell D Anderson Sr
1614 Wildwood Avenue
New Richmond, WI 54017-2400

August 19, 2002



Reference: 2002230 60 00754 USD

Dear Russell D Anderson Sr:

Thank you for your interest in *Blue* from American Express. At this time, we are unable to open an account for you.

Your application was processed using a credit scoring system which assigns numerical values to the various pieces of information we consider in evaluating your application. Your application did not score enough points to qualify for an account at this time for the following reasons:

Risk score not available due to report of deceased status.

Our credit decision was based in whole or in part on information obtained in a report from the consumer reporting agency listed in this letter. You have a right under the Fair Credit Reporting Act to obtain a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. If you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency. Please understand that the reporting agency played no part in our decision and cannot supply you with specific reasons why we denied credit to you.

An important notice concerning your rights is included.

Thank you for your interest in our service.

Sincerely,

Donna Potts
New Accounts Department

DP/ag

WALLACE CD21251 799

UGNEUGNU0001001

CSC233

Card Services

Penny L Anderson
1614 Hallewood Blvd
New Richmond, WI 54017

July 05, 2002
Reference No. M7060864217

Dear Penny L Anderson:

Thank you for replying to our bankcard offer. Unfortunately, we cannot establish a credit card account for you at this time. Our decision was based on the following reasons:

- Insufficient Credit History

In reaching our decision, we relied on information contained in the consumer credit report of the first person named above from the consumer reporting agency:

Equifax Credit Information Services
1140 Hammond Drive, BLDG E Suite 5200
Atlanta, GA 30328
(800) 685-1111

Trans Union Consumer Relations Dept
2 Baldwin Place, P O Box 1000
Crum Lynne, PA 19022
(800) 888-4213

The consumer reporting agency did not make the credit decision and is unable to provide you with the specific reasons for our decision.

Please contact the credit reporting agency for specific instructions for obtaining a copy of your consumer credit report. You have the right to receive a free copy of your consumer credit report if you provide them with a copy of this letter within 60 days. You have the right to dispute the accuracy of any information in your report using the dispute resolution procedures accompanying your report.

Although we are unable to comply with your request, we appreciate your interest in our credit card program.

Sincerely,



Bryan Wallace
Vice President
Bank of America
(302) 741-1825

SEE OTHER SIDE FOR IMPORTANT INFORMATION

181485:08 M7060864217 D40

231

BA08-N



 ANDERSON, RUSSELL, D, SR SINCE 07/31/1988 FAD 12/20/2002
 1614 WILDWOOD, AVE, NEW RICHMOND, WI, 54017, TAPE RPTD 12/2000 (715) 246-2213
 1380 HERITAGE, DR APT 17, NEW RICHMOND, WI, 54017, CRT RPTD 04/2000
 13 BATCHELDER, AVE, MANCHESTER, NH, 03103, CRT RPTD 09/1999
 BDS-09/05/1960 SSS-394-78-4720

 Consumer Referral Location-313
 REGION 613 CSC CREDIT SERVICES
 EL PASO TX 79998-1221 800/392-7816

PO BOX 981221

 01 ES-, DELTA AIR LINES, ,

SUM-07/1992-12/2002, PR/OI-YES, FB-NO, ACCTS:16, HC-\$ 306- 170K, 1-ZERO,
 15-ONE

PUBLIC RECORDS OR OTHER INFORMATION

02 02/2000 COLL 02/1998 456YC00284 FOR AMERY REGIONAL, \$ 109, 02/2000 PAID
 BAL-02/2000 BAL- \$ 0, DLA: 05/1997, I, 896966
 6 YEAR 11 MONTHS UPDATE FREEZE

INQS-SUBJECT SHOWS 9 INQUIRIES SINCE 09/2002

EU 401ZB02533	WELLS FARGO HOME MOR	12/09/2002	-FI
EU 401ZB02533	WELLS FARGO HOME MOR	12/03/2002	-FI
ACIS 233309136	914AA00415	11/29/2002	-FI
AR 850BB24906		11/23/2002	-FI
PRM 682FM28517		10/17/2002	-FI
AR 491FM98970		10/14/2002	-FI
AR 103FM11640		10/11/2002	-FI
AR 850BB24906		09/27/2002	-FI
PRM 850BB01498		06/13/2002	-FI
PRM 404ON01216		06/06/2002	-FI
PRM 850BB01498		05/06/2002	-FI
PRM 850BB01498		04/19/2002	-FI
AR 103FM11640		04/18/2002	-FI
AR 850BB24906		03/22/2002	-FI
PRM 850BB01498		03/14/2002	-FI
AR 850BB24906		02/22/2002	-FI
AR 850BB24906		01/28/2002	-FI
AR 850BB24906		01/19/2002	-FI
AR 491FM98970		01/09/2002	-FI
EU 146ZB13616	2401 CENTENNIAL MTG	03/20/2001	-FI
EU 616ZB04898	144 WF HOME MORTGAGE	03/14/2001	-FI
EU 146ZB13616	2401 CENTENNIAL MTG	02/01/2001	-FI
CSC CONSUMER REINVES	914AA00381	12/20/2002	
AMERICAN EXPRESS TRS	190ON01836	08/18/2002	
STILLWATER FORD	613AN16404	08/07/2002	
TOUSLEY FORD INC	613AN00604	08/05/2002	
WELLS FARGO	491FM06356	03/20/2001	
CENTENNIAL MRTG & FU	234FM31033	02/02/2001	

* FIRM RPTD OPND H/C TRM BAL P/D CS MR ECOA
 ABN AMRO MORTGAGE GR * 06/2001 10/2000 166K 1K 0 I1 5 J DLA 05/2001
 REAL ESTATE MORTGAGE ACCT# 3300612148152
 FHA MORTGAGE
 BANK OF AMERICA * 02/1997 12/1994 22K 365 0 I1 35 I DLA 02/1997
 ACCOUNT TRANSFERRED OR SOLD ACCT# 4357-47148733

CSC235

CAPITAL ONE	* 11/2002 06/2002	522	7	7	R1	5	I	DLA 11/2002
CREDIT CARD					ACCT#			5178052225214101
CAPITAL ONE	* 03/2002 08/2001	306		0	R1	7	I	DLA 03/2002
ACCOUNT CLOSED AT CONSUMER'S REQUEST.					ACCT#			5291152036192272
PAID ACCOUNT/ZERO BALANCE								
CROSS COUNTRY BANK	* 04/1999 04/1999	500			R0		J	DLA 04/1999
CREDIT CARD					ACCT#			5414907091163282
AMOUNT IN H/C COLUMN IS CREDIT LIMIT								
FMC-OMAHA SERVICE CT	* 11/2002 06/1999	21K 351		0	I1	41	J	DLA 08/2002
AUTO					ACCT#			JHA2183DNO
FMC-OMAHA SERVICE CT	* 11/2002 11/2000	17K 283	10K		I1	24	J	DLA 11/2002
AUTO					ACCT#			EBA36121R7
FMC-OMAHA SERVICE CT	* 11/2002 08/2002	27K 456	26K		I1	3	J	DLA 11/2002
AUTO					ACCT#			EBA156G71Y
KEY BANK USA, NA-ASF	* 02/2000 08/1995	21K 357		0	I1	52	M	DLA 02/2000
PAID ACCOUNT/ZERO BALANCE					ACCT#			516497
AUTO								
NELNET LOAN SERVICES	* 11/2002 09/1996	18K 228	20K		I1	74	I	DLA 11/2002
STUDENT LOAN					ACCT#			39478472001
PAYMENT DEFERRED.								
NELNET LOAN SERVICES	* 12/1996 07/1992	2625 74M		0	I1	44	I	DLA 10/1996
STUDENT LOAN					ACCT#			39478472001
REFINANCED								
NORTHWEST AIRLINES C	* 12/2002 09/2002	25K 315	25K		I1	2	J	DLA 12/2002
SECURED LOAN					ACCT#			13539774
S & C BANK	* 10/2002 12/2001	23K 251		0	I1	9	J	DLA 09/2002
HOME IMPROVEMENT LOAN					ACCT#			406995201287126
WELLS FARGO FIN ACCE	* 04/2000 12/1994	22K 365		0	I1	8	I	DLA 11/1999
PAID ACCOUNT/ZERO BALANCE					ACCT#			9565-14815119
WELLS FARGO FINANCIA	* 10/2002 07/2001	1500	991		R1	14	J	DLA 10/2002
CHARGE					ACCT#			196-28428475
AMOUNT IN H/C COLUMN IS CREDIT LIMIT								
WELLS FARGO HOME MOR	* 11/2002 05/2001	170K 1K 165K			I1	16	J	DLA 11/2002
REAL ESTATE MORTGAGE					ACCT#			4728571702
FHA MORTGAGE								

End of ACRO FILE

-----Confirmation Screen-----

Mailing Address
RUSSELL D ANDERSON SR
1614 Hallewood Blvd
New Richmond WI 54017-2400

ACRO Queue 08

Form Selected
Revised Copy

Copies Delivery Method
01 Normal Delivery

No billing transaction will be performed.

No answer paragraphs were chosen

Order Form

Edit Data

Abort Form

CSC237

RUSSELL D ANDERSON SR
1614 Hallewood Blvd
New Richmond WI 54017-2400

Dear Customer,

Please find enclosed the results of your request for CSC to reinvestigate certain elements of your CSC credit file. Our investigation has now been completed.

APPLIED CARD SYSTEMS
P.O. BOX 15414
WILMINGTON DE 19850

Account Number: 4227097484406736

THIS ITEM HAS BEEN DELETED FROM THE CREDIT FILE.

Thank you for giving CSC Credit Services the opportunity to serve you.

CSC Credit Services
P.O. Box 981222
El Paso, TX 79998-1222
1-888-463-3319

Explanation of Reinvestigation Process:

When re-investigating disputed information, CSC's procedure is to contact the source of the information directly, either by an automated reverification or by letter or by telephone. Upon receipt of your request, we will provide you the company name and the address of the source(s) contacted. In addition, telephone number will be provided when available.

If the results of the re-investigation indicate that the source continues to dispute the information you disputed, you have the right to contact the creditor directly or request us to include a notation regarding the disputed information. You also submit a brief statement to CSC that will be included at the end of all subsequent credit reports which may serve as an explanation of any information dispute.

PLEASE NOTE: If the re-investigation results in changing or deleting the information, you may request an updated credit report be sent to any credit reporting agency that received your credit report in the past six months (twelve months for New York and Maryland) and/or any company which received your credit report in the last two years for employment purposes.

Please see the enclosed documents for a summary of your rights under the Fair Credit Reporting Act, as amended.

CSC238

Form 20021220-135251-13--D59-233309136 394784720

- 1 -

CSC239

TEAM ID : 27B

ACRO MAINTENANCE TRANSACTION SUMMARY

and Received: 11/25/2002

Enclosure Type: Mail

Priority Type: Other

Page: 1

Date: 12/20/2002

Control: #233309136

20 NM- ANDERSON, RUSSELL, D, SR.,

21 NM- ANDERSON, RUSSELL, D, SR, .

90C ID- 394-78-4720, 09/05/1960,

Comments-CSMD0211250266024 , D73, 11/29/02

Maintenance Action: No Action on This Section
Consumer Comment:

Consumer Comments -

PG CA- 1514, WILDWOOD, AVE, NEW RICHMOND, WI, 54017,
 PF CA- 1514, WILDWOOD, AVE, NEW RICHMOND, WI, 54017,

PT CA- 1514, WILDWOOD, AVE, NEW RICHMOND, WI, 54017,
COMMENT 5-

-97uenk-

Maintenance Action: No Action on This Segment
Consumer Comments

Dr. Sumner Comments -

FA-1380, HERITAGE, DR APT 17, NEW RICHMOND, WI, 54017,

GA-101

currents-

Maintenance Action; No Action on This Segment
Consumer Comments

Consumer Comments-

F2- 13, BATCHELDER, AVE, MANCHESTER, NH, 03103,
F2-

23

ments.

Maintenance Action: No Action on This Segment

James C. Comptroller

CSC240

In the
United States Court of Appeals
For the Seventh Circuit

No. 04-1423

LLOYD SARVER,

Plaintiff-Appellant,

v.

EXPERIAN INFORMATION SOLUTIONS,

Defendant-Appellee.

Appeal from the United States District Court for
the Northern District of Illinois, Eastern Division.
No. 02 C 7825—Elaine E. Bucklo, *Judge.*

ARGUED SEPTEMBER 29, 2004—DECIDED DECEMBER 1, 2004

Before CUDAHY, RIPPLE, and EVANS, *Circuit Judges.*

EVANS, *Circuit Judge.* Lloyd Sarver appeals from an order granting summary judgment to Experian Information Solutions, Inc., a credit reporting company, on his claim under the Fair Credit Reporting Act (FCRA), 15 U.S.C. §§ 1681 *et seq.*

Experian reported inaccurate information on Sarver's credit report, which on August 2, 2002, caused the Monogram Bank of Georgia to deny him credit. Monogram cited the Experian credit report and particularly a reference to a

bankruptcy which appeared on the report. Both before and after Monogram denied him credit, Sarver asked for a copy of his credit report. He received copies both times and both reports showed that accounts with Cross Country Bank were listed as having been “involved in bankruptcy.” No other accounts had that notation, although other accounts had significant problems. A Bank One installment account had a balance past due 180 days, and another company, Providian, had written off \$3,099 on a revolving account.

On August 29, 2002, Sarver wrote Experian informing it that the bankruptcy notation was inaccurate¹ and asking that it be removed from his report. Sarver provided his full name and address but no other identifying information. On September 11, Experian sent Sarver a letter requesting further information, including his Social Security number, before it could begin an investigation. Sarver did not provide the information, but instead filed the present lawsuit, which resulted in summary judgment for Experian. It was later confirmed that the notation on the Cross Country Bank account was inaccurate and, as it turned out, another Lloyd Sarver was the culprit on that account.

In this appeal from the judgment dismissing his case, Sarver claims summary judgment was improper because issues of fact exist as to whether Experian violated FCRA, §§ 1681i and 1681e(b). We review a grant of summary judgment *de novo*. *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). A nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts Where the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no

¹ Although no one disputes that our Lloyd Sarver never filed for bankruptcy, a “Lloyd Sarver” did so in 1997 in the United States Bankruptcy Court for the Middle District of Pennsylvania.

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‘genuine issue for trial.’” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986) (citations omitted).

Section 1681i requires a credit reporting agency to reinvestigate items on a credit report when a consumer disputes the validity of those items. An agency can terminate a reinvestigation if it determines the complaint is frivolous, “including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.” § 1681i(a)(3). We do not need to decide whether Sarver’s failure to provide the information Experian requested rendered his complaint frivolous; his claim under § 1681i(a) fails for another reason, a lack of evidence of damages. In order to prevail on his claims, Sarver must show that he suffered damages as a result of the inaccurate information. As we have said in *Crabill v. Trans Union, L.L.C.*, 259 F.3d 662, 664 (7th Cir. 2001):

Without a causal relation between the violation of the statute and the loss of credit, or some other harm, a plaintiff cannot obtain an award of “actual damages.”

On this point, the district court concluded that there were no damages. Our review of the record leads us to agree.

Sarver, however, disagrees and claims that he suffered damages when he was denied credit from Monogram Bank of Georgia on August 2, 2002. This letter cannot be a basis for his damage claim, however, because as of August 2, Experian had no notice of any inaccuracies in the report. Even though Sarver asked for a copy of his report on July 18, he did not notify Experian of a problem until a month and a half later. Experian must be notified of an error before it is required to reinvestigate. As we have made clear, the FCRA is not a strict liability statute. *Henson v. CSC Credit Servs.*, 29 F.3d 280 (7th Cir. 1994).

Sarver also does not show that he suffered pecuniary damages between August 29 (when he notified Experian of

the error) and February 20, 2003 (when the Cross Country account was removed from his file). He does not claim that he applied for credit during that time period or that a third party looked at his report. In addition, his claim for emotional distress fails. We have maintained a strict standard for a finding of emotional damage “because they are so easy to manufacture.” *Aiello v. Providian Fin. Corp.*, 239 F.3d 876, 880 (7th Cir. 2001). We have required that when “the injured party’s own testimony is the only proof of emotional damages, he must explain the circumstances of his injury in reasonable detail; he cannot rely on mere conclusory statements.” *Denius v. Dunlap*, 330 F.3d 919, 929 (7th Cir. 2003). Finally, to obtain statutory damages under FCRA § 1681n(a), Sarver must show that Experian willfully violated the Act. There is similarly no evidence of willfulness. Summary judgment was properly granted on this claim.

We turn to Sarver’s claim under § 1683(b), which requires that a credit reporting agency follow “reasonable procedures to assure maximum possible accuracy” when it prepares a credit report. The reasonableness of a reporting agency’s procedures is normally a question for trial unless the reasonableness or unreasonableness of the procedures is beyond question. *Crabell*, 259 F.3d at 663. However, to state a claim under the statute,

a consumer must sufficiently allege “that a credit reporting agency prepared a report containing ‘inaccurate’ information.” *Cahlin v. General Motors Acceptance Corp.*, 936 F.2d 1151, 1156 (11th Cir. 1991). However, the credit reporting agency is not automatically liable even if the consumer proves that it prepared an inaccurate credit report because the FCRA “does not make reporting agencies strictly liable for all inaccuracies.” *Id.* A credit reporting agency is not liable under the FCRA if it followed “reasonable procedures to assure maximum possible accuracy,” but nonetheless reported inaccurate information in the consumer’s credit report.

No. 04-1423

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Henson, 29 F.3d at 284. The Commentary of the Federal Trade Commission to the FCRA, 16 C.F.R. pt. 600, app., section 607 at 3.A, states that the section does not hold a reporting agency responsible where an item of information, received from a source that it reasonably believes is reputable, turns out to be inaccurate unless the agency receives notice of systemic problems with its procedures.

Experian has provided an account of its procedures. The affidavit of David Browne, Experian's compliance manager, explains that the company gathers credit information originated by approximately 40,000 sources. The information is stored in a complex system of national databases, containing approximately 200 million names and addresses and some 2.6 billion trade lines, which include information about consumer accounts, judgments, etc. The company processes over 50 million updates to trade information each day. Lenders report millions of accounts to Experian daily; they provide identifying information, including address, social security number, and date of birth. The identifying information is used to link the credit items to the appropriate consumer. Mr. Browne also notes that Experian's computer system does not store complete credit reports, but rather stores the individual items of credit information linked to identifying information. The credit report is generated at the time an inquiry for it is received.

One can easily see how, even with safeguards in place, mistakes can happen. But given the complexity of the system and the volume of information involved, a mistake does not render the procedures unreasonable. In his attempt to show that Experian's procedures are unreasonable, Sarver argues that someone should have noticed that only the Cross Country accounts were shown to have been involved in bankruptcy. That anomaly should have alerted Experian, Sarver says, to the fact that the report was inaccurate. What Sarver is asking, then, is that each computer-generated report be examined for anomalous information and,

if it is found, an investigation be launched. In the absence of notice of prevalent unreliable information from a reporting lender, which would put Experian on notice that problems exist, we cannot find that such a requirement to investigate would be reasonable given the enormous volume of information Experian processes daily.

We found in *Hensen* that a consumer reporting agency was not liable, as a matter of law, for reporting information from a judgment docket unless there was prior notice from the consumer that the information might be inaccurate. We said that a

contrary rule of law would require credit reporting agencies to go beyond the face of numerous court records to determine whether they correctly report the outcome of the underlying action. Such a rule would also require credit reporting agencies to engage in background research which would substantially increase the cost of their services. In turn, they would be forced to pass on the increased costs to their customers and ultimately to the individual consumer.

Hensen, 29 F.3d at 285. The same could be said for records from financial institutions. As we said, in his affidavit Mr. Browne proclaims, and there is nothing in the record to make us doubt his statement, that lenders report many millions of accounts to Experian daily. Sarver's report, dated August 26, 2002, contains entries from six different lenders. The increased cost to Experian to examine each of these entries individually would be enormous. We find that as a matter of law there is nothing in this record to show that Experian's procedures are unreasonable.

Accordingly, we AFFIRM the judgment of the district court.

No. 04-1423

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Teste:

*Clerk of the United States Court of
Appeals for the Seventh Circuit*